

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 5/14/2024

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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D.S., *individually and on behalf of K.S., a child with a* :
disability, :
:
:

Plaintiff, :

-v- :

NEW YORK CITY DEPARTMENT OF :
EDUCATION, :

Defendant. :

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GREGORY H. WOODS, United States District Judge:

1:22-cv-10641-GHW

ORDER

On April 29, 2024, Magistrate Judge Robyn F. Tarnofsky issued a Report and Recommendation (“R&R”) recommending that the Court grant in part Plaintiff’s motion for summary judgment. Dkt. No. 37. In the R&R, Judge Tarnofsky determined that Plaintiff was entitled to recover attorneys’ fees and costs under the fee-shifting provisions of the Individuals with Disabilities Education Act (“IDEA”), for work performed by the Cuddy Law Firm in two administrative proceedings and this proceeding. *Id.* at 1. However, Judge Tarnofsky recommended that the Court not award the full amount Plaintiff requested—a total of \$66,856.43, plus pre- and post-judgment interest—and instead award a total of \$31,917.68 in attorneys’ fees and costs, plus post-judgment interest only. *Id.* at 10–11.

A district court reviewing a magistrate judge’s report and recommendation “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Parties may raise specific, written objections to the report and recommendation within fourteen days of receiving a copy of the report. *Id.*; *see also* Fed. R. Civ. P. 72(b)(2). The Court reviews for clear error those parts of the report and recommendation to which no party has timely objected. 28 U.S.C. § 636(b)(1)(A); *Lewis v. Zon*, 573 F. Supp. 2d 804, 811

(S.D.N.Y. 2008).

No objection to the R&R was submitted within the fourteen-day window. The Court has reviewed the R&R for clear error and finds none. *See Braunstein v. Barber*, No. 06 Civ. 5978 (CS) (GAY), 2009 WL 1542707, at *1 (S.D.N.Y. June 2, 2009) (explaining that a “district court may adopt those portions of a report and recommendation to which no objections have been made, as long as no clear error is apparent from the face of the record”). The Court, therefore, accepts and adopts the R&R in its entirety.


Accordingly, for the reasons articulated in the R&R, Plaintiff’s motion for summary judgment, Dkt. No. 16, is GRANTED in part. Plaintiff D.S. is entitled to an judgment against Defendant, the New York City Department of Education, which shall be liable for the following award:

- (1) \$11,733.60 in attorneys’ fees for the first administrative proceeding;
- (2) \$8,724.80 in attorneys’ fees for the second administrative proceeding;
- (3) \$10,865.60 in attorneys’ fees for this action; and
- (4) \$593.68 in costs.

The Clerk of Court is directed to enter judgment for Plaintiff and against Defendant in the aggregate amount of \$31,917.68. No pre-judgment interest is awarded. Post-judgment interest shall accrue on the unpaid amount of the judgment at the rate established by 28 U.S.C. § 1961(a). The Clerk of Court is directed to close this case.

SO ORDERED.

Dated: May 14, 2024
New York, New York



GREGORY H. WOODS
United States District Judge